

**ELECTRIC ENERGY AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Francis D. Gibson

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**LONG TITLE****General Description:**

This bill modifies provisions relating to electric energy.

**Highlighted Provisions:**

This bill:

- modifies the periods during which installation of a residential photovoltaic energy system qualifies for a specified tax credit; and
- provides for the repeal of provisions relating to net metering of electricity.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-10-1014**, as last amended by Laws of Utah 2017, Chapter 33**63I-1-254**, as last amended by Laws of Utah 2016, Chapter 393

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **59-10-1014** is amended to read:**59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --****Certification -- Rulemaking authority.**

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 63M-4-401.

(i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources

59 available at the site.

60 (ii) "Passive solar system" includes those portions and components of a building that  
61 are expressly designed and required for the collection, storage, and distribution of solar energy.

62 (j) "Photovoltaic system" means an active solar system that generates electricity from  
63 sunlight.

64 (k) (i) "Principal recovery portion" means the portion of a lease payment that  
65 constitutes the cost a person incurs in acquiring a residential energy system.

66 (ii) "Principal recovery portion" does not include:

67 (A) an interest charge; or

68 (B) a maintenance expense.

69 (l) "Residential energy system" means the following used to supply energy to or for a  
70 residential unit:

71 (i) an active solar system;

72 (ii) a biomass system;

73 (iii) a direct use geothermal system;

74 (iv) a geothermal heat pump system;

75 (v) a hydroenergy system;

76 (vi) a passive solar system; or

77 (vii) a wind system.

78 (m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling  
79 unit that:

80 (A) is located in the state; and

81 (B) serves as a dwelling for a person, group of persons, or a family.

82 (ii) "Residential unit" does not include property subject to a fee under:

83 (A) Section 59-2-404;

84 (B) Section 59-2-405;

85 (C) Section 59-2-405.1;

86 (D) Section 59-2-405.2; or

87 (E) Section 59-2-405.3.

88 (n) "Wind system" means a system of apparatus and equipment that is capable of:

89 (i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or before December 31, 2021, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

(i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(b) the residential energy system is installed on or after January 1, 2007; and

(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) \$2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, \$2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, ~~[2018]~~ 2020, \$1,600;

(C) for a system installed on or after January 1, ~~[2019]~~ 2021, but on or before December 31, ~~[2019]~~ 2021, \$1,200;

(D) for a system installed on or after January 1, ~~[2020]~~ 2022, but on or before December 31, ~~[2020]~~ 2022, \$800; and

(E) for a system installed on or after January 1, ~~[2021]~~ 2023, but on or before December 31, ~~[2021]~~ 2023, \$400.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

- 152 (i) the claimant, estate, or trust may assign the tax credit to the other person; and
- 153 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
- 154 Income Taxes, the other person may claim the tax credit as if the other person had met the
- 155 requirements of Section 59-7-614 to claim the tax credit; or
- 156 (B) if the other person files a return under this chapter, the other person may claim the
- 157 tax credit under this section as if the other person had met the requirements of this section to
- 158 claim the tax credit.
- 159 (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
- 160 claimant, estate, or trust shall obtain a written certification from the office.
- 161 (b) The office shall issue a claimant, estate, or trust a written certification if the office
- 162 determines that:
- 163 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
- 164 credit; and
- 165 (ii) the office determines that the residential energy system with respect to which the
- 166 claimant, estate, or trust seeks to claim a tax credit:
- 167 (A) has been completely installed;
- 168 (B) is a viable system for saving or producing energy from renewable resources; and
- 169 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
- 170 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
- 171 and economic manner.
- 172 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 173 office may make rules:
- 174 (i) for determining whether a residential energy system meets the requirements of
- 175 Subsection (5)(b)(ii); and
- 176 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or
- 177 trust may receive under Subsection (4), establishing the reasonable costs of a residential energy
- 178 system, as an amount per unit of energy production.
- 179 (d) A claimant, estate, or trust that obtains a written certification from the office shall
- 180 retain the certification for the same time period a person is required to keep books and records
- 181 under Section 59-1-1406.
- 182 (6) A tax credit under this section is in addition to any tax credits provided under the

183 laws or rules and regulations of the United States.

184 (7) A purchaser of one or more solar units that claims a tax credit under Section  
185 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this  
186 section for that purchase.

187 Section 2. Section **63I-1-254** is amended to read:

188 **63I-1-254. Repeal dates -- Title 54.**

189 (1) The language of Subsection [54-4-13.4](#)(1)(a)(ii) after "do not exceed \$5,000,000 in  
190 any calendar year" is repealed July 1, 2018.

191 (2) Subsection [54-7-13.5](#)(2)(d) is repealed on December 31, 2019.

192 (3) Title 54, Chapter 15, Net Metering of Electricity, is repealed January 1, 2036.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**